IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7354 OF 2004

Union of India, .. Petitioners

Vs

1. Smt Shaila A Udhwani & ors. .. Respondents

Mr Rajguru i/b Mr S.S.Sarker, for the petitioners.

CORAM : D.B.BHOSALE,J.

DATE : 13th December, 2004.

PC:

1. This petition is directed against the concurrent findings recorded by the courts below by which Exhibit-5-application filed by the respondents-plaintiffs has been allowed and the petitioners-defendants are restrained from encroaching upon the suit land. While allowing Exhibit-5 application, another Application-Exhibit-26 filed by the respondents-plaintiffs was rejected. By that application, the plaintiffs had prayed for mandatory injunction against the petitioners-defendants. Exhibit-5 application was allowed by the trial Court vide order dated 15.1.2003 which came to be confirmed in Misc.Civil Appeal No.81/2003 vide order dated 29.4.2004. During pendency of the Appeal, no interim order was passed in favour of the petitioners and as a result of

which since 15.1.2003 the order of injunction is running against the petitioners. Keeping that in view and considering the reasons recorded by the courts below and the other material placed before me, I am satisfied that the following order will meet the ends of justice.

(i) The trial Court shall endeavour to decide the Regular Civil Suit No.1607 of 2002 as expeditiously as possible and preferably within a period of nine months from the date of receipt of this order.

(ii) In view of the fact that the application-Exhibit-26 filed by the respondents-plaintiffs seeking mandatory injunction was rejected by the trial Court, the respondents are expected to maintain status-quo in respect of a wall allegedly constructed by the petitioners, in the plot in dispute.

3. The writ petition, accordingly, stands disposed of.

(D.B.BHOSALE, J.)